IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8210 OF 2003

Shri M.S.Bait ... .... Petitioner
V/s
The Union of India & Anr. ... ... ..... Respondents.

Mr.T.R.Yadav, Adv. for the petitioner.

None for respondents.

**CORAM: V.G. PALSHIKAR,**

**Ag.C.J.**

AND

**SMT.NISHITA MHATRE,**

**J.**

7.02.2006.

PC:

By this petition the petitioner has challenged the order passed by Central Administrative Tribunal rejecting the application of the petitioner for directing the respondent- Union of India to promote the petitioner because the person junior to him (respondent No.2 herein) was promoted in violation of the Rules governing grant of promotion.

2. The Tribunal has considered this aspect from all angles and has observed that the holding of Departmental Promotion Committee was proper and the Committee has considered the applicant along with others and has found him not fit for promotion. According to the Tribunal proper reasons were recorded for denying promotional benefits to the petitioner. Reasons were also recorded for the conclusion that the petitioner was not fit for promotion and then the Tribunal goes on to observe that the Tribunal cannot

substitute its own judgment for that of the Departmental Promotion Committee and therefore the application was rejected.

3. Assailing the order it was pointed out that the seniority has to be considered while granting promotion to the cadre which is sought by the petitioner. However perusal of the Rules relevant show that the promotion is to be awarded on the basis of seniority-cum-merit. The fact that the petitioner had the seniority resulted in his being considered by the Departmental Promotion Committee. The fact that he lacked merit and respondent No.2 was found better suited is noticed by the Departmental Promotion Committee and therefore the petitioner was denied promotion. In such circumstances it cannot be held that there is any breach or any rules. There is therefore no substance in this petition and the same is liable to be rejected. Petition stands dismissed.